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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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08/782,590

01/13/1997

SAMUEL ROSE

43/24

9631

7590 11/16/2007
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EXAMINER

UNGAR, SUSAN NMN

ART UNIT

PAPER NUMBER

1642

MAIL DATE

DELIVERY MODE

11/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment

Application No.

08/782,590

Examiner

Susan Ungar

Applicant(s)

ROSE, SAMUEL

Art Unit

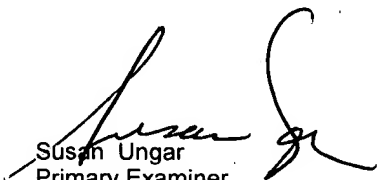
1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 12 October 2006.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☒ A reply was received on 16 March 2007 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet


Susan Ungar
Primary Examiner
Art Unit: 1642

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

The Response filed on March 16, 2007 in Response to the Notice of Non-Compliant Amendment mailed October 12, 2006 is not fully responsive to the prior Office action because Applicant's submission does not accurately reflect the status of the claims as required. The response states that "a proper Claim set indicating the status of the claims including canceled Claims and the amended Claims is enclosed." A review of the claim set reveals that the status set forth for claims 1-74 and 78-82 is "original". However, a review of the claim amendments submitted on September 29, 1997, May 27, 1999, November 16, 1999, August 13, 2001, January 2, 2002 and January 10, 2003 reveal amendments to these claims, too numerous to mention. Thus, indication of the status of these claims as "original" is improper. Further, the response states that "Enclosed Claims 69, 75, 76, 83 marked (previously presented), were currently amended." However, the claims in question do not show any evidence of amendment, do not state that they are currently amended. Further, claims 84 to 87 are presented without any status identifier.

With the mailing of the previous action, Applicant had been notified three times of submission of improper claims sets and two times of Non-Compliant Amendment. Since the notification mailed was the second Notice of Non-Compliant Amendment, Examiner found that the response at that time was not considered a bona fide attempt to provide a complete reply and that a fully responsive reply must be timely filed to avoid abandonment of this Application.

Given that the instant response is in response to the third notification of improper claim set and the second Notice of Non-Compliant Amendment, given that the paper mailed October 12, 2006 specifically identified the problems with the claim set, given that the instant response is again not fully responsive, Examiner again finds that the response is not a bona fide attempt to provide a complete reply..

Although in the interests of customer service Examiner decided not to abandon the instant case on October 12, 2006 upon the submission of a response that was not a bona fide attempt to provide a complete reply, it is noted for Applicant's convenience that the MPEP 708.02(d) teaches-in-part that;

If a reply to a non-final Office action is not fully responsive, but a bona fide attempt to advance the application to final action, the examiner may provide one month or thirty days, whichever is longer, for applicant to supply the..... fully responsive reply. Failure to timely filea fully responsive reply will result in abandonment of the application. If the reply is not a bona fide attempt, no additional time period will be given. 708.02(d)

Given that the instant response is not fully responsive, given that the instant response is not a bona fide attempt to provide a complete reply, this application is hereby abandoned..